



October 29, 2003

Marlene H. Dortch
Secretary
Federal Communications Commission
TW-A325
445 Twelfth St., SW
Washington, DC 20554

Re: MB Docket No. 02-230

Dear Ms. Dortch:

Public Knowledge today files with the Commission a document in response to requests by Commission staff. The attached internal draft pertains to the functional criteria for the "Table A" approval process in the Broadcast Flag Proceeding.

In accordance with Section 1.1206(b), 47 C.F.R. § 1.1206, this letter is being filed electronically with your office today.

Respectfully submitted,

A handwritten signature in black ink that reads "Mike Godwin". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Mike Godwin
Senior Technology Counsel

Cc:

Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein
Mr. Paul Gallant
Mr. Matt Brill
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Mr. John Wong
Mr. Jonathan Levy
Mr. Mike Perko
Ms. Deborah Klein
Mr. Thomas Horan
Mr. Steve Broecker
Mr. Michael Lance
Mr. Alan Stillwell

10/29/03

Functional Criteria for Table A Approval:

Scope/Robustness – when signaled by the flag the device must reasonably prevent the indiscriminate mass redistribution of DTV content to the public

Reasonable and Nondiscriminatory Licensing Practices – licensing and license terms may not be used to unfairly impede interoperability and compatibility, licensing practices must not unreasonably hinder the development and availability of new devices and technologies

Notice – not a functional criterion per se, but consumers should be notified of limitations, not reasonably foreseeable, on their personal use)

Flexibility – (this is where the “use” language might go – enabling reasonable consumer uses and future uses without impacting the scope or robustness) The technology should not obstruct the historical trend towards finding new “fair uses” and other limited uses of copyrighted works that do not unbalance the copyright-law framework (e.g., sharing a favorite work with a family member via the Internet).

Interoperability – devices should reasonably interoperate with new devices, future devices and legacy devices; any portable media (e.g., DVDs) devices create should also demonstrate, to the greatest degree possible, playback capability on legacy devices and as-yet-to-be-introduced devices; devices should also reasonably interoperate with other hardware platforms or operating systems; to the extent possible, recordings should not favor one operating system over another.

Privacy – devices should not unnecessarily collect, store or transmit personal information – (at least without notice)

Revocation – for failure to meet criteria. Revocation should occur only when accompanied by a cost-benefit analysis of the effects of revocation. For example, the “hacking” of DVD protection should not require revocation of an existing set of DVD devices or recordings in the field unless the cost of such revocation has been calculated to be less than the cost of non-revocation.